NOVA SCOTIA

ECONOMIC DEVELOPMENT

Nova Scotian Co-operatives and The Law

A COMPLETE COLLECTION OF GUIDELINES AND PROCEDURES INVOLVED IN CO-OPERATIVE LEGISLATION AS WELL AS OTHER IMPORTANT MATERIAL USEFUL FOR THOSE INTERESTED IN OR INVOLVED WITH CO-OPERATIVES.

CO-OPERATIVES BRANCH

102-05733/

NOVA SCOTIA ECONOMIC DEVELOPMENT

Nova Scotian Co-operatives and The Law

N.S. Economic Development
Co-operatives Branch
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http://www.gov.ns.ca/ecor/ced/coop

A complete collection of guidelines and procedures involved in co-operative legislation as well as other important material useful for those interested in or who work with co-operatives.

CO-OPERATIVES BRANCH

Nova Scotian Co-operatives and The Law

- Explains the function of the Inspector of Co-operatives
- Describes services of the government
- Summarizes the Co-operative Act
- Provides help for corporate Secretaries and Officers

Also includes forms for:

1. - Extraordinary Resolution
   - Inspector of Co-operatives Report
   - Submission Requirements
   - Non-audit
   - Change of Address

2. - Borrowing of Money Resolution
   - By-law Revisions
   - Change of Name and other Procedures

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LEGAL PROCEDURES AND RESOURCES FOR NOVA SCOTIA CO-OPERATIVES

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Introduction

The Co-operative Associations Act in Nova Scotia is administered by the Inspector of Co-operatives, of the Co-operatives Branch of the Department of Economic Development. The Inspector is appointed by order in council by the Government of the Province.

The Government of Nova Scotia has been involved with Co-operative development dating back to the early 1900's when Agricultural Representatives were helping farmers group their shipments of livestock to markets. In 1900 the farmers in Pictou County formed the Scotsburn Creamery, and even earlier marketing ventures by groups of farmers using the co-operative system date back to 1861.

In 1906, the Farmers Co-operative Associations Act was enacted as a special part of the Companies Act, and in 1935, the first Co-operative Associations Act was passed by parliament, still keeping a close tie with the Companies Act. This 1935 Act appointed the Department of Agriculture as the Department responsible for the administration of the Act because most of the Co-operatives at that time were associated with the agricultural communities in the province, and Department employees were working closely with Co-operative organizations.

There are about three hundred Co-operatives in the province, thirty of which are closely associated with the agriculture industry and make up the largest portion of the total sales. More recently the growth of worker Co-operatives, Housing Co-operatives and Forestry Co-operatives prompted the transfer in 1986 to the Department of Economic Development whose mandate is to promote economic development in all sectors of the provincial economy.

Sales of co-operatives are 600 million dollars representing about five percent of the economic activity of the province. Co-operatives provide housing for over two thousand families, employ over three thousand Nova Scotians, manage over 50 thousand acres of woodland, and market over 60 percent of the value of agricultural production in the province. Co-operatives have over 60 thousand Nova Scotians as members, representing, along with 160,000 members of Credit Unions, one in every three Nova Scotians.

The Inspector of Co-operatives, who has been delegated the responsibility of the administration of the Act, has a number of roles to play taking direction from the Act and Policies of the Department of Economic Development.

Incorporation of a Co-operative is a privilege, and the Inspector of Co-operatives exercises this judgement, and as such, must obtain adequate information from the subscribers to be assured that the organization will be run on a co-operative basis and that the organization continues to operate to the benefit of the members while adhering to the co-operative principles and the Act.

Incorporation charges, filing charges and the general Act administration costs to the Co-operative are kept low purposely so as not to put a financial roadblock in the way of any small group wishing to operate a business.

The Co-operative is required to submit to the Inspector yearly:

1. An Auditors Report
2. Financial Statements including Operating Statement and Balance Sheet
3. Inspector of Co-operatives Report (see form) which includes:
   - List of Officers
   - Number of Members and other information
4. Management letters of the Auditor

Periodically:

1. Change of address notice (see form)
2. Extraordinary Resolution for approval (see forms)
3. Amalgamation agreements for approval
4. Approval request for non-audit
5. Other requirements of the Acts, e.g. letter of good standing

The Co-operative Branch provides other services to Co-operatives and those associated with Co-operatives, for example:

1. ***Advice*** pertaining to the co-operative Associations Act
2. ***Management procedures*** and information resources
3. ***Directorship procedures*** and information resources
4. ***Training*** and resource materials for officers and employees of Co-operatives
5. ***Statistics*** and information concerning Co-operative operations and status
6. ***Assistance*** with new incorporations, legal procedures, liquidation, etc.
7. ***Seminars*** and workshop on Co-operatives operations

For further information contact: Co-operatives Branch
35 Commercial St., Suite 101
Truro, NS B2N 3H9
Telephone: (902)893-6190
Fax: (902)893-6108
Email: fpierce@gov.ns.ca
Website: http://www.gov.ns.ca/ecor/ced/coop

Test Your Understanding of Co-operative Law

Following are questions often posed by Managers and/or Directors to this office. Answers at the back.

1. If a membership is jointly held, who gets to vote at a membership meeting?
2. Can a non-member be elected to the Board of Directors?
3. Can employees be elected to the Board?
4. What is the Co-operative legally required to do to maintain the legal status of the Co-operative?
5. Can a non-member hold equity in a Co-op?
6. If a member dies, who is entitled to their membership and equity?
7. What certification is a Co-op required to issue for investments in the Co-op, e.g. shares, member loans?
8. Are the directors required to meet with the auditor?
9. Can a Co-op refuse membership to anyone?
10. How may a member be excluded from membership?
11. What recourse does the excluded member have?
12. If a member or group of members are dissatisfied with the management of the Co-op, what can they do?
13. What are the meeting rules in member meetings?
14. How much notice is required for membership meetings? Board meetings? Committee meetings? How is the notice to be given?
15. Who should be bonded in a Co-op? Who pays?
16. Can a member sell his shares to another person?
17. What records or documents must be shown or available to members? Directors? Staff? When? and Where? e.g. accounts receivable, member equity, ledger, minutes of annual, or board meetings, financial audited statements, by-laws, co-operative act, co-operative regulations, staff salaries.
18. If a member dies, who is entitled to the equity held in the member's name? When must it be repaid?
19. What is the process to change
    (a) the by-laws,
    (b) address of the co-operative,
    (c) name of the co-operative,
    (d) or to borrow money,
    (e) and when do these changes become legally binding?
20. Is Co-op Atlantic permitted to be an auditor?
21. Can the Co-operative take the equity from a member?
22. Can a member offer his equity in a Co-operative as security to a bank?
23. Can Associations be a member of a Co-operative?
24. Can a member transfer their equity to another person?
25. Can Corporations be a member of a Co-operative?
26. (a) Are shares ever valued at less than par?
    (b) Are shares ever valued more than par?
27. Who can attend board meetings?
28. What is confidential in board meetings?
29. Can the Co-operative refuse a request to repay a member shares?
30. When are directors personally liable for their actions as a director?
31. Can the Inspector investigate the business of the Co-operative?
32. If there is not a quorum at a membership meeting how can the co-operative proceed?
33. What obligations does the Co-operative have to provide to members or the public for copies of the:
    (a) By-laws
    (b) Co-operative Act and Regulations
    (c) Minutes
    (d) Policies
34. What is the procedure in a board meeting if a board member has a conflict of interest?
35. How can directors be removed as directors?
36. Can a member force a membership meeting?

Summary of Legal Procedures for Co-operatives Administered Under The N.S. Co-operatives Association Act Chapter 98 Acts of 1989

Most of the procedures relating to the Co-operative Associations Act are directed through the office of the Co-operatives Branch. The Co-operatives Branch has prepared a number of forms and recommended procedures to assure that the provisions of the Act are adequately followed along with the time required for submission.

Report Certificate or Form	*Responsible*	*Time*
1. Inspector of Co-operatives	the Co-operative	within four months of the year end
(a) Auditor's Report	the Co-operative	within four months of the year end
(b) Financial Statements	the Auditor	within four months of the year end
(c) Auditor's Management Letters	the Auditor	when they are written or with Auditor's Report
2. Approval of Auditor	the Secretary	before the year end so the Auditor can attend stock taking
3. Change of Address	the Secretary	within 28 days of the change
4. Change of Name	the Secretary	immediately after the approval is received from the members
5. Extraordinary Resolution	the Secretary	within 14 days of the passing of the resolution
6. Approval from the Inspector to sell, mortgage, lease or dispose of property without an extraordinary resolution	the Secretary	before the agreement is signed and when it is impractical for an extraordinary resolution to be exercised
7. Approval for joint venture	the Secretary	before the agreement is signed
8. Approval of shares being less than par value	the Secretary	before any payment is made to members when the Co-operative is in a deficit position
9. Amalgamation approval	the Secretary	after membership approval
10. Certificate of good standing	the Secretary	when requested by a lending institution or others
11. Certificate of continuation	the Secretary	when organization wishes to transfer to Federal Co-operative Act
12. Liquidation Procedure Forms	the Liquidator	a step-by-step procedure for liquidation with necessary forms

Co-operative Associations Act and Regulations
Chapter 98 Acts of 1989

Co-operative people fought for a long time to persuade governments to enact legislation which would give them laws so they could incorporate all co-operatives under one co-operative legislation.

The Co-operative Associations Act of Nova Scotia, Chapter 98, Acts of 1989 contain the latest revision. The Act of 1977 was a result of a committee representing co-operatives and governments in the Maritime provinces, which met over five years.

The advantages of the present co-operative legislation are:

1. It's simple and understood by laymen.
2. It's well written, in good order, and in a language most everyone can understand.
3. It's all encompassing and does not need to rely on other legislation for action as was previously the case.
4. It's short, containing only 37 pages, compared to 150 pages in the Companies Act.
5. It's what co-operatives want - Each and every N.S. Co-operative was invited to submit ideas and suggestions, and as well, its authors, principally from Co-operatives, were concerned with making the Act acceptable to Co-operative practitioners.

With this involvement of co-operative representatives, along with over fifty years of experience and testing, the results are an act which is well accepted and appropriate for the task.

Following is a summary of the Co-operatives Act and Regulations for your use. These laws require that a copy of the Act and Regulations be available on demand to each member of a Co-operative to view at the registered office of the Co-operative. In addition the by-laws of the Co-operative must be provided if requested to members.

The Co-operative Branch will assist you in better understanding the Act, the regulations and by-laws for assistance please call.

Legal Rights and Duties

DIRECTORS

Directors are required to manage the affairs of the business. The President is responsible for making sure the legal responsibilities of managing the co-operative are brought to the attention of the Directors.

DIRECTORS

1. ***Approve or Disapprove***
   (a) membership applications (25, R)
   (b) repayment of members' equity (R)
2. ***Appoint***
   (a) auditors, if the members fail to (4, 2)
   (b) a President, Vice President, Secretary and Treasurer (R)
   (c) board members when a vacancy occurs (33, 5, 7)
   (d) a manager (33, 3)

3. ***Direct***
   (a) that books of account are kept (41)
   (b) where place of business is to be
   (c) application and use of the seal (R)
   (d) that a percent of the surplus each year be directed to the reserve fund (R)
4. ***Meet*** immediately after every annual meeting. (R)
5. ***Manage*** the affairs of the Co-operative. (33)
6. ***Call***
   (a) special meetings. (R)
   (b) director meetings. (R)
7. ***Cause*** minutes of director meetings and general meetings to be kept. (33, 9)
8. ***Lay*** an audited financial statement and report before the annual meeting. (41, 2)
9. ***Have power*** to pay part of the price of a commodity. (34, 4)

DIRECTORS MAY

10. ***Transfer***
    (a) membership (R)
    (b) shares (R)
    (c) deceased members' equity to persons they deem entitled (28, 5)
    (d) members' equity as directed by the nomination of the member (28, 4)
11. ***Pay*** unclaimed members' equity to a charitable organization (61)
12. ***Declare*** a director's office vacant (33, 5)
13. ***Delegate*** powers of the Board to Committees (R)
14. ***Expel*** any member who does not observe any of the by-laws (29, 2R)
15. ***Refuse payment*** of a member's equity (29, 1)
16. ***Determine the value*** of a member's equity when it is less than par
17. ***Appoint or remove*** managers, secretaries, treasurers and to determine their powers and duties and to fix their salaries. (R24)
18. ***Invest*** any moneys. (R24)
19. Determine who is entitled to sign bills, notes, cheques etc. (R24)

THE CO-OPERATIVE

The Co-operative, as an identity, has rights and responsibilities under the law. The Board of Directors usually assure that these duties and responsibilities are met. They are:

1. ***Have*** its registered office in Nova Scotia. (22)
2. ***Keep***
   (a) a register of members (24,1)
   (b) a nomination of beneficiary (24, 6)
   (c) a proper book of accounts (31, 6)
3. ***Have a charge*** upon the shares and equity of any member for member's debts (26, 2)
4. ***Hold*** a general meeting within four months of the year end (20, 1)
5. ***Cause*** the minutes of general meetings to be kept (21, 6)
6. ***Elect*** a Board of Directors no fewer than three (33, 2)
7. ***Not issue*** preference shares (20, 1)
8. ***Forward*** a copy of every Extraordinary Resolution to the Inspector for approval (32, 1)
9. ***Not be required*** to issue Certificates for shares or membership (R)
10. ***Create*** a general reserve (R)
11. ***Not pay a patronage*** dividend which will create or increase a deficit (36, 3)
12. ***Give a notice*** to the Inspector of the place of its registered office (23)
13. ***Not contribute*** to a political party (17)
14. ***Give notice*** of special or general meetings (40, 5)

15. ***Send*** to the Inspector each year
    (a) a copy of the audited financial statements (42)
    (b) a completed Inspector's Report (42)
16. ***Make*** by-laws (R)
17. ***Not permit*** the withdrawal of a member's equity when such withdrawal would impair the financial stability of the Co-operative (29, 1C)

MAY

18. ***Elect*** delegates (32, 1)
19. ***Amend or alter*** the objects of its Articles of Incorporated (18, 1)
20. ***Require*** its members to lend its patronage dividends (38, 10)
21. ***With the sanction of an Extraordinary Resolution:***
    (a) Amend its Articles of Incorporation (15, 1)
    (b) Change of name (19, 1)
    (c) Amalgamate (43)
    (d) Change its by-laws (R)
    (e) Dissolve (44, 1)
22. ***Pay*** or not pay patronage dividends. (36, 4, 5)

MEMBERS OF CO-OPERATIVES

The members of the Co-operative also have responsibilities and authorities under the Act which are:

1. ***Have*** one vote (31, 1)
2. ***Elect*** a Board of Directors (R)
3. ***Be given*** a copy of the by-laws if requested (R)
4. ***Be entitled*** to inspect the members register (R)
5. ***Decide*** who votes when shares are held jointly (R)
6. ***Have*** the right to appear before membership meeting to explain why he should not be expelled (29, 2)
7. ***Not be required*** to purchase shares in excess of par value (37, 2)
8. ***Not be required*** to purchase shares when the co-operative is insolvent (38, 2)
9. ***Appoint*** or remove auditors. (40)

MAY

10. ***Request*** the Inspector to investigate the co-operative (5, 2 b)
11. ***Form*** a co-operative (3 members) (6)
12. ***Nominate*** someone to receive shares upon his death (28, 1)
13. ***Withdraw*** from membership (29, 1)
14. ***Be excluded*** from membership (29, 2)
15. ***Elect*** directors or delegates (32, 3)
16. ***Remove*** directors at a general meeting (33, 5)
17. ***Make*** marketing contracts (34, 2)
18. ***Be required*** to lend all or part of their patronage dividends (38, 1)
19. ***Appoint*** one or more liquidators (44(11))

INSPECTOR OF CO-OPERATIVES

In order to administer the Co-operative Associations Act, the Inspector or Co-operatives has duties and authority, which are:

SHALL

1. ***Approve or not approve***
   (a) Articles of Incorporation or By-laws (5, 2)
   (b) Extraordinary Resolutions (32, R)
   (c) Auditors (40, 1)
   (d) Amalgamation agreements (43, 4)
   (e) Agreements for co-operation, joint venture, reciprocal, concession, etc. (16, i)
   (f) Sale, mortgage, lease, etc., of the Co-operative (16, c)
2. ***Perform*** such duties as may be required or directed by the Minister (5, 2, f)
3. ***Prepare and deliver*** each year a report showing the number of co-operatives and the financial standing of each co-operative (5, 2, d)
4. ***Receive*** and file all returns and reports required from each co-operative (5, 2, c)
5. ***Investigate,*** inspect and examine co-operatives when requested by 10 percent or 50 members (5, 2, b)
6. ***Endorse*** a Certificate of Incorporation (12, 1)
7. ***Transmit*** to the Registrar one copy of the Articles of Incorporation and by-laws for filing (12, 1)
8. ***Return*** unapproved Articles of Incorporation and By-laws to a proposed Co-operative with a statement of his reasons for not approving. (12, 2)
9. ***Transmit*** to the Registrar, Extraordinary Resolutions (once approved) for filing (32, 1)
10. ***Return*** unapproved Extraordinary Resolutions to the co-operative with reasons for not approving (32, 2)
11. ***Cause*** a notice of dissolution to be filed with the Registrar (if the Inspector approves the resolution) and advertised the dissolution in the Royal Gazette (44, 4)
12. ***Proceed*** with dissolution when he has reasonable cause to believe that the co-operative is not in business (45, 1, 2)

MAY

13. ***Call*** a general meeting when the Co-operative is in default. (20, 2)
14. ***Examine*** officers, agents and servants regarding the affairs of the Co-operative (5, 3)
15. ***Investigate,*** inspect, inquire, and examine into the affairs of the business of any Co-operative (5, 2, b)
16. ***Approve*** a Co-operative not having an auditor (40, 1)
17. ***Require*** that 25 percent of the members' equity in the Co-operative was represented at a vote for dissolution (44, 5)
18. ***Call*** another meeting if 25 percent of the members in (44, 5) were not present (44, 6)
19. ***Refuse*** dissolution proceedings (44, 7)
20. ***Require*** progress reports in the case of dissolution (44, 8)
21. ***Designate*** upon dissolution to which surplus funds may be directed (60, 1, 2)
22. ***Dissolve*** a Co-operative (44, 1)
23. ***Designate*** the conditions of contribution to the general reserve (R)

Individual copies of the act are available from the office of the Inspector of Co-operatives, or more than one copy may be purchased from :

Government Bookstore
Department of Supply and Services
1700 Granville St., Box 637
Halifax, NS B3J 2T3
Tel: (902)424-7580 Fax: (902)424-8425 Website:http://www.gov.ns.ca/bacs/books/index

Extraordinary Resolution and Procedures

Extraordinary resolutions are directions from the members which are approved by the Inspector of Co-operatives and registered in the public file of the Registrar of Joint Stock Companies. These resolutions, required by the Co-operative Association Act, assure the members a voice in the important decisions of their Co-operative.

To assure that members have an opportunity to voice their opinion and vote on the resolution, it is required that the members:

(1) receive ten days notice of the meeting, and
(2) receive the intent of the resolution to be presented.

When the resolution is registered (forwarded to the Inspector within fifteen days of passing, certified by the Secretary that the meeting was properly held and accompanied with the appropriate fee), and filed (forwarded by the Inspector, after his approval, to the Registrar), the resolution is available for anyone to examine. It becomes a public document available at the office of the Inspector of Co-operatives, Truro, or the Registrar of Joint Stock Companies, Hollis Street, Halifax.

Extraordinary Resolutions are required:

(1) To raise or borrow money (32, L)
(2) To sell, mortgage, lease or dispose of property (16)
(3) To acquire a business or any part of a business (16)
(4) To acquire or hold membership in any company or associations (16, h)
(5) To amalgamate two or more co-operatives (43)
(6) Alter or amend its Articles of Incorporation or By-laws (18)
(7) Change the name of the co-operative (19)
(8) To dissolve a co-operative (44)

Approval of the Extraordinary Resolution

When the Inspector of Co-operatives receives the extraordinary resolution, he confirms that it has been properly drafted and that the Co-operative is in "good standing" (that the necessary submissions have been forwarded by the Co-operative and that, to the best of his knowledge, the co-operative is being run on a co-operative basis). The Inspector then approves the resolution and forwards it to the Registrar for filing.

After the Registrar confirms to the Inspector that the extraordinary resolution has been filed, the Inspector forwards a confirmation of registration to the Co-operative.

The Co-operative Branch keeps detailed files on each Co-operative including copies of the extraordinary resolution registered. This office may be a valuable reference for Co-operatives doing research or wishing to update their records.

For further information, the Inspector of Co-operatives may be contacted at his office:

35 Commercial Street, Suite 101
Truro, NS B2N 3H9
Tel: (902)893-6190
Fax: (902)893-6108
Email: fpierce@gov.ns.ca

The Secretary's Certificate following is required to accompany each extraordinary resolution:

SECRETARIES CERTIFICATE

THE CO-OPERATIVE ASSOCIATION ACT
CHAPTER 98 ACTS OF 1989

EXTRAORDINARY RESOLUTION

OF THE

_____

_____

I certify that attached hereto is a true copy of the Extraordinary Resolution duly passed by a majority of not less than three-fourths of the votes cast by the members present and entitled to vote at a General Meeting of the members of the said Association convened and held in accordance with the by-laws thereof at _____ in the County of _____ on the _____ day of _____ , 19___ and that the intention to propose the said resolution as an Extraordinary Resolution was specified in the notice calling the said meeting in accordance with the Co-operative Associations Act, Chapter 98, Acts of 1989 and the by-laws of the Association.

_____
Secretary of the said Association

Two copies of this extraordinary resolution are to be forwarded to the Inspector of Co-operatives
35 Commercial St., Suite 101, Truro, Nova Scotia B2N 3H9 within fifteen days of the passing of this motion.

A fee of five dollars ($5.00) made payable to the Inspector of Co-operatives must accompany this notice.

For use in Co-operatives in Nova Scotia Incorporated under the Co-operative Association Acts, 1989, Chapter 98.

_____ _____

Name of Lending Institution Form #

CO-OPERATIVE

_____ Co-operative Limited.

EXTRAORDINARY RESOLUTION

Respecting the Borrowing of Money by the Co-operative.

1. THAT the members of the Co-operative in General Meeting assembled hereby sanction the exercise by the Co-operative of all and every power to borrow money and to secure repayment thereof which is conferred upon it by Nova Scotia Co-operative Associations Act, Chapter 98, Acts of 1989.

2. AND THAT without limiting the generality of the foregoing provision the Co-operative may from time to time:
   (a) Borrow money from _____ upon the credit of the Co-operative.
   (b) Limit or increase the amount to be borrowed.
   (c) Hypothecate, mortgage, pledge, charge or assign the real and/or personal property of the Co-operative or any part or parts thereof and/or the rights and powers of the Co-operative or any of them, by way of collateral or additional security for the repayment of any moneys borrowed for the purposes of the Co-operative.
   (d) Give promises and agreements to give security to secure any moneys borrowed for the purposes of the Co-operative.
   (e) Give additional security at any time for any money borrowed or remaining due by the Co-operative.
   (f) Issue bonds, debentures or debenture stock of the Co-operative secured by mortgage or otherwise or charged upon all or any part of the property of the Co-operative, both present and future, including its uncalled capital for the time being.
   (g) Sign or endorse bills, notes, acceptances, cheques, contracts and other evidence of or securities for money borrowed or to be borrowed for the purposes aforesaid.
   (h) Pledge debentures as security for loans.
   (i) Execute all such charges, hypothecation, mortgages, assignments and pledges of the whole or any part or parts of its real and/or personal property, rights and/or powers or any of them, to secure the repayment of any moneys raised or borrowed for the purposes of the Co-operative in accordance with the power conferred by this resolution.

3. AND THAT THE DIRECTORS of the Co-operative may exercise all such powers and do all such acts and things as may be exercised or done by the co-operative by virtue of the foregoing provisions; and without limiting the generality of the foregoing, may from time to time:
   (a) Borrow money from _____ upon the credit of the Co-operative.
   (b) Limit or increase the amount to be borrowed.
   (c) Hypothecate, mortgage, pledge, charge or assign the real and/or personal property of the Co-operative or any part or parts thereof personal property of the Co-operative or any part or parts thereof and/or the rights or powers of the Co-operative or any of them, by way of collateral or additional security for the repayment of any moneys borrowed for the purposes of the Co-operative.

(d) Give promises and agreements to give the real and/or personal property of the Co-operative or any part or parts thereof and/or rights and powers of the Co-operative or any of them as security to secure any moneys borrowed for the purposes of the Co-operative.
(e) Give as additional security for any money borrowed or remaining due by the Co-operative, the real and/or personal property or any part or parts thereof and/or rights and powers thereof or any of them;
(f) Issue bonds, debentures or debenture stock of the Co-operative secured by mortgage or otherwise or charged upon all or any part of the property of the co-operative, both present and future, including its uncalled capital for the time being.
(g) Sign or endorse bills, notes, acceptances, cheques, contracts and other evidence of or securities for money borrowed or to be borrowed for the purposes aforesaid.
(h) Pledge debentures as security for loans.
(I) Execute all such charges, hypothecation, mortgages, assignments and pledges of the whole or any part or parts of its real and/or personal property, rights and/or powers or any of them, to secure the repayment of any moneys raised or borrowed in accordance with the power conferred by this resolution.

4. AND THAT the powers hereby conferred shall be deemed to be in supplement of and not in substitution for any powers to borrow money for the purposes of the Co-operative possessed by the Directors.

5. AND THAT the borrowing of money from time to time heretofore made under the authority of the Directors from _____ or any other Lending Institution and the giving of security therefore or otherwise or in any manner whatsoever be and they are hereby ratified and confirmed.

AND THAT this resolution shall continue in force until a resolution repealing the same shall have been sanctioned by the members and a copy thereof duly certified under the seal the Co-operative delivered to the said Lending Institution and receipt thereof acknowledged by it.

The Co-operative must forward two copies of this Resolution, duly completed, to the Inspector of Co-operative, 35 Commercial Street, Suite 101, Truro, NS B2N 3H9, within 15 days for the date of passage, along with a cheque for five dollars ($5.00) made payable to the Inspector of Co-operatives. An additional five dollars ($5.00) is required if the co-operative wishes to obtain a certified copy of the resolution.

Notice of Motion

In order to have an extraordinary resolution presented to the members at a special or annual meeting, it is required to forward along with the notice of the meeting a ***Notice of Motion***.

A notice of motion must be spelled out in the meeting notice and is followed by the words "It will be proposed as an extraordinary resolution to" and followed by the intent of the resolution to be put to the meeting, e.g. "To amend the by-laws of the co-operative relating to qualifications of membership" or whatever is intended.

Another example may be "To authorize the Board of Directors to borrow money and offer whatever security is required to build an addition to the grocery store on Main Street".

Each member is entitled to a notice of meeting and a notice of motion when an extraordinary resolution is proposed. This notice must be forwarded no less than ten days prior to the meeting date.

When the extraordinary resolution has been passed by three-fourths of those members present and entitled to vote at a general meeting, the Secretary of the co-operative ***must certify*** that the meeting was convened and held in accordance with the by-laws and that the intention to propose the extraordinary resolution as an extraordinary resolution was specified in the notice calling the meeting.

The *seal of the co-operative is required to be affixed to the certificate. The resolution, accompanied with the certificate signed by the Secretary and a cheque for five dollars ($5.00), is to be forwarded to the Inspectors of Co-operatives, 35 Commercial Street, Suite 101, Truro, NS B2N 3H9, for approval within fifteen days of the passing of the resolution.

* To obtain a corporate seal contact:

London Rubber Stamp Co.
1594 Argyle Street
Halifax, NS B3J 2B3
Tel: (902)429-9062
Fax: (902)423-7602

Borrowing of Money - Extraordinary Resolution

When a Co-operative begins operations, the directors usually choose a bank or credit union to clear their money transactions, etc. (Section 24 Regulations).

Most credit granting and deposit organizations require an extraordinary resolution of the members empowering the Board to borrow money from that institution. This resolution is required by the lending institution for their protection in case of a cheque deposited with insufficient funds (which results in a borrowing) and justified under the circumstances.

This extraordinary resolution is required to be processed in the same manner as explained previously and the following form is recommended with the completion of the blank spaces in 2(a), 3(a), 5, and the Secretary's Certificate completed in the manner as set out in the section ***Extraordinary Resolution.***

INSPECTOR OF CO-OPERATIVES REPORT FOR AUDITORS IN NOVA SCOTIA

The administration of Co-operatives is somewhat different than for other incorporated business organizations in the province. The Inspector of Co-operatives, appointed by the Government, has a responsibility to report to the Minister of Economic Development on the standing of each organization. In order to prepare this report each co-operative is required to forward to the Inspector within two weeks after the co-operatives annual meeting an Inspector of Co-operatives report along with the auditors report and an audited financial statement.(41)

Since Co-operatives are incorporated as a privilege and not a right of law, only those Co-operatives which operate on a ***Co-operative Basis*** may hold a charter. If, in the opinion of the Inspector, a Co-operative is not operating on a co-operative basis, the Co-operative may be forced to cease operating under Co-operative legislation.

Much of the information the Inspector receives to assure him that the Co-operative is operating effectively comes from the reports of the auditor. Since the reports of the auditor are critical to the Inspector's assessment of the Co-operative, the Inspector is required to approve the appointment of each auditor and may suspend the auditor if the auditor fails to comply with the requirements of the Act.

There are a few special requirements in the auditing of co-operatives which may be beneficial to the organization (Directors and management) and to the Inspector of Co-operatives. They are:

1. ***An audit engagement letter*** prepared by the auditor prior to the audit to the chairman or the audit committee, setting out the terms of engagement including that, as part of the audit and reporting procedure, a completed Inspector of Co-operatives report as well be forwarded to the President and the Inspector of Co-operatives.

2. ***A management letter*** prepared by the auditor after the audit is completed, to be prepared and discussed with the manager and made available to the Inspector of Co-operatives.

Non Audits

A non-audit may be approved in some circumstances:

1. When the level of business activity is very small and where the business is straight forward, the Inspector may permit a non-audit providing the members agree to the non-audit, and the treasurer submits the necessary completed forms. However, when the Inspector believes that a non-audit is inadequate, a full audit may be required.

2. When special circumstances are present, the Inspector may waive an audit and allow an accountant's comments or a review whichever is appropriate. When a review is to be performed, confirmation of approval of the Co-operative's banking institution should be obtained.

NOVA SCOTIA

PLEASE TYPE OR PRINT CLEARLY

NOVA SCOTIA ECONOMIC DEVELOPMENT
CO-OPERATIVES BRANCH
Tel: (902)893-6190; Fax: (902)893-6108

Annual Filing Requirements for NS Cooperatives Branch
There may be a penalty if not filed within one month after the Co-operatives annual meeting.

Name of Cooperative				Incorporation Number
Telephone Number	Fax Number			Date of Annual Meeting — Month (by name) Day Year
Mailing Address	City/Town	Province	Postal Code	Fiscal Year End — Month (by name) Day Year
Address of Head Office (if different)	City/Town	Province	Postal Code	Number of Members
Name & Address of Auditor	City/Town	Province	Postal Code	Number of Paid Employees Wages $_____ Full Time _____ Part Time _____

OFFICERS (*Attach a separate sheet if necessary*)

	Name	Address (*including postal code*)
Chairperson		
Vice Chairperson		
Secretary		
Treasurer		
Manager		

BOARD OF DIRECTORS (*Attach a separate sheet if necessary*)

FINANCIAL INFORMATION ***(for Inspector of Co-operatives pre approved non-audit exempt Co-operatives. All other Co-operatives must forward audited financial statement to the Co-operatives Branch).***

Total Sales $_____

Total Income (other income + gross margin) $_____

Total Surplus Earnings (profit before taxes $_____

TotalAssets $_____

Long-term debt $_____

Total Members Equity (shares & reserves) $_____

_____
Signature of Person Completing This Return

_____
Title (*please print*)

_____
Name (*please print*)

_____ _____
Telephone Number Fax Number

_____
E-mail Address

RETURN THIS FORM TO: **N.S. Economic Development**
Co-operatives Branch
Suite 101, 35 Commercial Street
Truro, N.S. B2N 3H9 OR fax: (902)893-6108

Non-Audit Procedure

Although the Co-operative Associations Act states that an audit is required each year, and audits to many are interpreted as an examination by a Chartered Accountant, this procedure is really not practical in many situations.

Non-Audit Qualifications

All auditors of Co-operatives require the approval of the Inspector of Co-operative; similarly, when a non-audit is thought advisable, the Co-operative is also required to obtain approval of the Inspector. The Inspector has identified and has provided pre approval to most Co-operatives which qualify for a non-audit.

Larger Co-operatives with assets over one million dollars must have a Chartered Accountant audit their organization.

For Co-operatives that have not received pre approval for a ***NON-AUDIT*** from the Inspector of Co-operatives, the directors must receive a consent from a Members Annual Meeting not to appoint an auditor. This request signed by the Secretary must be forwarded to the Inspector of Co-operatives for approval.

Following are the procedure forms which may assist in meeting this most important requirement of the Co-operative Associations Act.

MEMBERSHIP CONSENT NOT TO APPOINT AN AUDITOR

At an Annual Meeting of the members of _____ held at _____ _____ in the County of _____ on the _____ day of _____ 19 _____ a motion was presented to the meeting and was passed by the members which gives consent of the members not to appoint an auditor for the fiscal year ending _____ 19 ____. This letter is a request to the Inspector of Co-operatives for approval of this motion.

_____
Secretary

Approved_____
Inspector of Co-operatives
35 Commercial St., Suite 101
Truro, B2N 3H9

This approval is on condition that a balance sheet and operating statement are to be submitted to the Inspector of Co-operatives by the Treasurer of the Association, stating that in the opinion of the Treasurer the balance sheet and operating statement represent fairly the financial position of the Co-operative.

NOTICE OF REGISTERED OFFICE
THE CO-OPERATIVE ASSOCIATIONS ACT
CHAPTER 98, ACTS OF 1989
NOVA SCOTIA

To the Inspector of Co-operatives:

_____ Limited hereby gives you Notice in accordance with the Co-operative Associations Act, Chapter 98, Acts of 1989, Section 22 and 23 that the Registered office of the Co-operative is situated at:

Number of building _____

Street _____

Town _____ Postal Code _____

_____
Secretary of the said Co-operative

Dated _____ day of _____ 19_ .

Two copies of this Notice are to be forwarded to the Inspector of Co-operatives, 35 Commercial St., Suite 101 Truro, NS B2N 3H9, within 28 days of the change of the registered office. You may fax as well to (902)893-6108 or email to cpeck@gov.ns.ca. There is no fee for this procedure.

Development Resource Materials Available

Resource materials from Co-operative Branch.

BOOKLETS:

1. How to Start a Co-operative - describes Co-operative principles, structure, capitalization, organization and requirements for success. Included also are the fill-in-the-blank Incorporation forms, Articles of Incorporation and By-Laws.

2. Co-operative Associations Act and Regulations - the legislation that governs all Co-operatives incorporated in Nova Scotia.

3. Annual Report of Nova Scotia Co-operatives - Including annual statistics, new incorporations, Co-operatives struck from the Registry, list of Co-operatives and officers by county, type and address.

4. Directors of Co-operatives - Outlines the duties and functions of Co-operative Directors, and suggestions for effective operations of Boards.

5. Co-operative Business Plan Workbook - This fill-in-the-blank workbook outlines the steps in preparing a business plan and it is especially designed to accommodate a co-operative and especially a worker co-operative.

6. Chairing Meetings - Briefly explains Roberts Rules of Order for the President of a Co-operative.

7. The Board Manual for Co-operatives - Provides much information for a Director's Manual including job descriptions organizational chart, committee operations, policies. Director meeting guides, by-laws, auditing procedures, Inspector's Report, secretary's fill-in-the-blank forms, and an excellent procedure for assessing the manager.

8. What Are Co-operatives? - Describes Co-operatives and the roles of members, directors, managers and employees.

9. Reinventing Co-operatives - A review of a researcher which examines the role of today's Co-operatives in our economy.

10. Government Programs for Co-operatives - A list of programs that could apply to Nova Scotians Co-operatives.

11. A Quick Look at Co-operatives - A summary of the way Co-operatives operate in today's Nova Scotian economy. This is of particular interest to new entrants to Co-operative membership.

12. Investment/Equity Tax Incentives for Co-operatives describes briefly provincial government incentives for members to invest in shares in Co-operatives.

Miscellaneous Information Concerning Legal Procedures of the Co-operatives Association Act

Liquidation of a Co-operative - 61

A Co-operative may wind-up on a voluntary basis under the Co-operative Associations Act by having the members or the Inspector of Co-operatives appoint a liquidator.

A detailed step-by-step procedure and guide has been prepared for liquidators which is designed to make the liquidation procedures more easily understood. This guide is available to liquidators upon approval of their appointment.

Any inquiries or further information should be directed to the Inspector of Co-operatives, 35 Commercial Street, Suite 101, Truro, NS B2N 3H9. Telephone (902)893-6190 or fax (902)893-6108.

Inspector's approval to Sell - 16(c)

Under certain circumstances it is not feasible nor practical to obtain the permission of the members by an extraordinary resolution to sell, mortgage, lease or otherwise dispose of the property or undertakings of the co-operative. In these circumstances, the Inspector of Co-operatives may give approval to the board of Directors providing there is a satisfactory explanation of why the extraordinary resolution was not processed through a membership meeting.

Change of Name

When a Co-operative wishes to obtain a Change of Name a special procedure is required. The members first must give approval through an extraordinary resolution and then approval of the Registrar of Joint Stock Companies must be given.

The procedure is not often used so it is suggested, before the members' meeting takes place that necessary requirements be reviewed with the Inspector, and that the proper forms be obtained from the Inspector's office.

Joint Venture - 16(I)

When a Co-operative decides to enter into a Joint Venture agreement for co-operation, etc., with another Co-operative or with any person or company with objects similar to the Co-operative, the project is subject to the approval of the Inspector of Co-operatives.

When a Joint Venture is anticipated, contact should be made with the Inspector to determine what information is required and to obtain a certificate of approval.

Certificate of Continuance - 16(V)

When a provincially incorporated Co-operative begins to have operations in more than two provinces, there may be advantages for the Co-operative to have federal status.

If the Co-operative required federal status, the Co-operative must obtain an extraordinary resolution from the members and then apply to the Minister of Economic Development for permission for the Co-operative to continue as a Corporation under the Federal Co-operatives Act.

This procedure is not often used so it is suggested a close contact with the Inspector be maintained.

If there are any other areas of legal concern of the Co-operative, it is usually advisable to contact the Inspector so that his experience and the experiences of other co-operatives may be shared with the Co-operative and its associates.

Certificate of Good Standing

Some lending institutions and some solicitors, to assure themselves that the Co-operative has complied with the provisions of the Act and the Inspector's requirements, contact the Inspector and request a Certificate of Good Standing from the Inspector.

By-Law and Articles Revision

The Co-operative's Board of Directors should periodically examine the by-laws and articles of the Co-operative to be assured the by-laws accurately reflect the practices, objectives and purpose of the Co-operative, and if changes are needed consult with the Inspector, and then make recommendations for changes at the next annual or general membership meeting through an extraordinary resolution.

Inspector's Investigation and Examination

If a member or group of members of a Co-operative are not satisfied with the management of the Co-operative, they may request the Secretary to call a meeting to discuss their concerns. The members may also ask the Inspector of Co-operatives to examine into the affairs of the Co-operative, and if advisable, report to a general meeting of the findings. This procedure is not often put into effect; usually the concerns of members are from inadequate information and can, in most cases, be resolved through dialogue with the Inspector as mediator.

Co-operative Associations Act

Is required to be available to all members of the co-operative at the office of the co-operative at reasonable times. Single copies are available from the Inspector. If you require extra copies you may purchase them from the Book Store, Halifax. Cost is $2.00 each.

Test Your Understanding of Co-operative Law

ANSWERS

1. If a membership is jointly held, who gets to vote at a membership meeting?
   - The first member unless one of the members has been elected to the Board. Regulation 2

2. Can a non-member be elected to the Board of Directors?
   - Yes, has two months to qualify . Act 33-5

3. Can employees be elected to the Board?
   - Yes, if approved by the Inspector. Regulation 27-B

4. What is the Co-operative legally required to do to maintain the legal status of the Co-operative?
   - Forward Annual Report, Inspectors Report, Auditors Report to the Inspector of Co-operatives.. Act 42

5. Can a non-member hold equity in a Co-op?
   - No

6. If a member dies, who is entitled to their membership and equity?
   - If less than $500 whomever the board thinks is entitled.
   - If over $500.00 a probate of a will or designation of beneficiary is required. Act 28-4

7. What certification is a Co-op required to issue for investments in the Co-op, e.g. shares, member loans?
   - No certificates are required but a statement is required to be forwarded each year. Regulation 3

8. Are the directors required to meet with the auditor?
   - No, but its a good idea. Act 40-9

9. Can a Co-op refuse membership to anyone?
   - Yes. Qualifications for membership are to be set out in the By-laws. Act 25

10. How may a member be excluded from membership?
    - Notify the member by registered letter. Pay out all equity at par. Act 29-2 or Regulation 6.

11. What recourse does the excluded member have?
    - At a membership meeting the member presents their case to the meeting - the members decision is final. Act 29-2b

12. If a member or group of members are dissatisfied with the management of the Co-op, what can they do?
    - Contact the Board or requisition the Inspector to examine into the business of the Co-operative who reports to the board or membership. Act 5-2b

13. What are the meeting rules in member meetings?
    - Roberts Rule or Order - Regulation 11

14. How much notice is required for membership meetings? Board meetings? Committee meetings? How is the notice to be given?

- 10 days notice is required for membership meetings, Board meetings - notice is required, Committee - no meetings notice is required. Notice is specified in the by-laws. Act 30-4, Regulation 11

15. Who should be bonded in a Co-op? Who pays?

- Anyone who has custody of funds or goods. The Co-operative pays the costs of bonding. Regulation 31

16. Can a member sell his shares to another person?

- Yes, with Board's approval. Act 28-2, Regulation 9

17. (a) What records or documents must be shown to members? Directors? Staff?

(b) When? and Where? are these to be shown e.g. accounts receivable, member equity, ledger, minutes of annual or board meetings, financial audited statements, by-laws, co-operative act, co-operative regulations, staff salaries.

(a) Member may see their own share ledger, the act, the regulations only during normal business hours. Directors may decide what they need to see. Staff may see records and documents as decided by the manager. Regulation 5

(b) The By-laws, Regulations, Co-op Act are to be available at the registered office, a member meeting is to set restrictions on the membership list (Act 24-3) the director shall decide what information about salaries is made public.

18. If a member dies, who is entitled to the equity held in the member's name? When must it be repaid?

- The estate if less than $500 at the discretion of the Board - (Act 28-3&4). The board decides by policy how the estate is to be repaid usually 6 months.

19. What is the process to change

(a) the by-laws of the co-operative	- Through an Extraordinary Resolution
(b) the address of the co-operative	- Notify Inspector
(c) name of the co-operative	- Through an Extraordinary Resolution
(d) or borrow money, and	- Through an Extraordinary Resolution when over the limit set in the by-laws
(e) when do these changes become legally binding?	- When registered with the office of the Inspector of Co-operatives

20. Is Co-op Atlantic permitted to be an auditor?

- Yes, with Inspectors permission. Act 40

21. Can the Co-operative take the equity from a member?

- Yes, to apply against any debt do to the Co-operative by that number. Act 26-2

22. Can a member offer his equity in a Co-operative as security to a bank?

- Yes, if they accept it and the Co-operatives is prepared to pay over the funds to the bank.

23. Can Associations be a member of a Co-operative?

- Any person, association, society, partnership, corporation, or institution may be a member of a co-operative Act 2(I)

24. Can a member transfer or sell their equity to another person?

- Yes, with Boards approval. Regulation 9

25. Can Corporations be a member of a Co-operatives?

- Yes. Act 2(I)

26. (a) Are shares ever valued at less than par? - Yes with Inspectors approval

(b) Can shares over be valued at mor than par? - never. Act 2-(d)&(v).

27. Who can attend board meetings?

- Board members and others the board decides.

28. What is confidential in board meetings?

- Anything the board decides.

29. Can the Co-operative refuse a request to repay a member shares?

- Yes, if in their opinion the repayment would jeopardize the financial security of the co-operative. Act 9

30. When are directors personally liable for their actions as a director?

- If they act imprudently their personal liability may be jeopardized.

31. Can the Inspector investigate or examine the business of the Co-operative?

- Yes, on his own or if requested by the membership (10% or 50 members whichever is the lesser number). Act 5-2.

32. If there is not a quorum at a membership meeting how can the co-operative proceed?

- The meeting shall stand adjourned for 2 weeks. No quorum is required at the reconvened meeting. Regulation 13

33. What obligations does the Co-operative have to provide to the members or the public, copies of the

(a) By-laws, - when requested by members

(b) Co-operative Act and Regulations - to view in the office during business hours

(c) Minutes of member meetings - to all members when the Board decides

(d) Policies of the Board - to all members when the Board decides

34. What is the procedure in a board meeting if a board member has a conflict of interest?

- Member determines conflict and removes himself during the discussion and vote. President may ask the director to leave.

35. How can directors be removed as a directors?

- If a Director misses 3 meetings, or fails to qualify for membership at special meeting. Regulation 27

36. Can a member force a membership meeting?

- Yes, the Inspector or directors must call a membership meeting if petitioned by the lesser of ten percent or fifty percent of the members. Act 33-5, Regulations 17.